

The New York Times

2nd Amendment Does Not Guarantee Right to Carry Concealed Guns, Court Rules

By ADAM NAGOURNEY and ERIK ECKHOLM JUNE 9, 2016

LOS ANGELES — A federal appeals court in San Francisco ruled Thursday that the Second Amendment of the Constitution does not guarantee the right of gun owners to carry concealed weapons in public, upholding a California law that imposes stringent conditions on who may be granted a concealed-carry permit.

The 7-to-4 [ruling](#) by the United States Court of Appeals for the Ninth Circuit, in San Francisco, overturned a decision by a three-judge panel of the same court and was a setback for gun advocates. The California law requires applicants to demonstrate “good cause” for carrying a weapon, like working in a job with a security threat — a restriction sharply attacked by gun advocates as violating the Second Amendment right to bear arms.

“Based on the overwhelming consensus of historical sources, we conclude that the protection of the Second Amendment — whatever the scope of that protection may be — simply does not extend to the carrying of concealed firearms in public by members of the general public,” the court said in a ruling written by Judge William A. Fletcher.

The case was brought by gun owners who were denied permits in Yolo and San Diego Counties. The plaintiffs did not immediately say whether they planned to appeal to the United States Supreme Court.

“This is a huge decision,” said Adam Winkler, a professor of constitutional law at the University of California, Los Angeles, School of Law. “This is a major victory for gun control advocates.”

Continue reading the main story

The Supreme Court has ruled that individuals have a right to possess a weapon in their home. Thursday’s ruling centers on the next frontier in the gun-control debate.

“Probably the most important battleground of the Second Amendment has been whether there is a right to carry guns outside the home, and if there is, to what extent can states and localities regulate that right,” said Jonathan E. Lowy, the director of the Legal Action Project at the Brady Center to Prevent Gun Violence.

Gun advocates swiftly condemned the ruling.

“This decision will leave good people defenseless, as it completely ignores the fact that law-abiding Californians who reside in counties with hostile sheriffs will now have no means to carry a firearm outside the home for personal protection,” Chris W. Cox, the executive director of the [National Rifle Association](#) Institute for Legislative Action, said in a statement.

With Thursday's decision, the Ninth Circuit joins several other federal appeals courts in allowing state or local governments to put restrictions on the granting of concealed-carry licenses.

Mr. Winkler, the law professor, noted that the best indicator of whether the Supreme Court would take up a constitutional issue was there was a split among district courts. "Without a split in the circuits, the Supreme Court is less likely to take up the case," he said.

But Mr. Lowy said that given the stakes of the decision — and the long history of litigation on the issue — he would not be surprised if the court decided to step in. "There is no circuit split, but it's certainly possible that the court could decide it wants to address this," he said. "I'd be surprised but not shocked if Supreme Court took this for review."

The decision by the three-judge panel of the Ninth Circuit had thrown out the requirement that a gun owner demonstrate "good cause" for getting a weapon. Within days of that decision, in 2014, counties across the state, which administer the permits, [reported getting a flood of applicants seeking concealed weapons permits](#). Although the decision was stayed pending appeal, some county sheriffs began issuing permits; the status of those permits was not immediately clear.

In a dissent to Thursday's ruling by the full court, Judge Consuelo Maria Callahan said that the Second Amendment protection to gun owners that applied in the privacy of one's home — upheld in a 2008 Supreme Court decision involving a law in Washington, D.C. — "extends beyond one's front door."

"Like the rest of the Bill of Rights, this right is indisputably constitutional in stature and part of this country's bedrock," she wrote.

Kamala Harris, the state attorney general who asked the full court to reconsider the decision by the three-judge panel, said the ruling "ensures that local law enforcement leaders have the tools they need to protect public safety by determining who can carry loaded, concealed weapons in our communities."